

LEGISLATIVE BASIS OF THE RIGHTS AND INTERESTS PROTECTION OF ETHNIC GROUPS IN MODERN KAZAKHSTAN

Base legislativa de los derechos y protección de intereses de grupos étnicos en Kazakstán moderno

Sharip Ishmukhamedov Abdrakhmanovich

Kazak National Pedagogical University named after Abai (Kazakhstan)

SUMMARY

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Abstract

Kazakhstan is the multiethnic and multi-religious country on territory of the former Soviet Union. The country became independent in 1991 and built a democratic, legal state, where the highest values are freedoms, rights and interests of citizens. One of the main tasks of strengthening the sovereignty and stability is protection of the rights and interests of ethnic groups and minorities. The country has created and developed the constitutional, legislative and institutional basis protecting the rights of ethnic groups. Modern democratic Constitution, the laws on language, education, NGOs, the media protect the rights and interests of ethnic groups and minorities in Kazakhstan. The legislative framework allows ethnic groups to freely use, study their language, culture and traditions. Restrictions of the rights and freedoms of ethnic groups and minorities, discriminations on the base of language, ethnicity, religion are not allowed by Constitution and laws. Well-developed legislature regulates the legal basis of use of the two major languages of the country: the Kazakh language and Russian language.

Keywords: the Republic of Kazakhstan, ethnic minorities, law, legislature.

Resumen

Kazakstán es un país multiétnico y multireligioso situado en el territorio de la ex-unión soviética. El país se hizo independiente en 1991 y construyó un estado democrático, legal,

donde los valores más altos son libertades, derechos e intereses de los ciudadanos. Una de las tareas principales tras haber reforzado la soberanía y la estabilidad es la protección de los derechos y los intereses de grupos étnicos y minorías. El país ha creado y ha desarrollado una base constitucional, legislativa e institucional que protege los derechos de grupos étnicos. La constitución moderna democrática, las leyes sobre la lengua, la educación, ONGs, los medios de comunicación protegen los derechos y los intereses de grupos étnicos y minorías en Kazakstán. El marco legislativo permite a grupos étnicos usar libremente y estudiar su lengua, cultura y tradiciones. Las restricciones de los derechos y las libertades de grupos étnicos y minorías, discriminaciones sobre la base de lengua, identidad étnica y religión es el un hecho restringido según la constitución y leyes. La legislatura bien desarrollada regula la base legal de empleo de las dos lenguas principales del país: la lengua kazaka y el ruso.

Palabras clave: la República de Kazakstán, minorías étnicas, ley, legislatura.

1. Introduction

The modern Republic Kazakhstan is the recognised democratic state on space of the Central Asia. Kazakhstan will celebrate the 20th anniversary of independence in 2011. According to the Constitution of the country, Kazakhstan is a unitary republic without politically self-governing regions or autonomies.

The territory of Kazakhstan is located both in the Eastern Europe, and in the Central Asia. Geostrategic position of Kazakhstan makes this country as very considerable to influence on situation in Russia, China and Central Asia¹.

Kazakhstan after passage of the transit stage since 1991, strengthening its independence is a state within the international community and developing international relations with the EU, USA and all developed countries.

The country is now considered to be the dominant state in Central Asia. Kazakhstan is a member of many international organizations, including the UN, the Euro-Atlantic Partnership council, the Commonwealth of Independent States, and the Shanghai Cooperation Organization. Kazakhstan is one of key states who have implemented an Individual Partnership Action Plan with NATO. In 2010, Kazakhstan is chairing the OSCE.

¹ B. IMANALIEV & M. TOREBAEVA, *All Kazakhstan*, Almaty, Baur Publishing, 2006, pp. 4-6.

Feature of Kazakhstan consists in its internal political conditions and passing transforming processes. But one of the main sphere of attention of scientists, observers, officials and international humanitarian organizations in Kazakhstan is interethnic situation and processes.

2. Features of interethnic relations in Kazakhstan

After the collapse of the Soviet Union in the Republic of Kazakhstan and bordering countries have been significant political, economic, humanitarian and other changes.

In many bordering countries to Kazakhstan ethnic conflicts and wars were taking place which entailed huge economic, political, humanitarian problems for people. Ethnic conflicts in Kyrgyzstan, Uzbekistan, Tajikistan and Russia had ethnic, social and economic reasons which are currently having a negative impact on development of these independent countries. Some conflicts as in Azerbaijan, Armenia still can not find the political, legal solution, threatening to pour out in the further interethnic and interstate conflicts. But after collapse of the Soviet Union, in contrast to neighboring countries, Kazakhstan had no ethnic conflict or collisions.

In general, Kazakhstan is an ethnically and culturally diverse, partly due to mass deportations, labor immigration of many ethnic groups in the country during the Soviet era. The Kazakhs are now the largest ethnic group. Kazakhstan has officially 130 nationalities, including Kazakhs, Russians, Uzbeks, Ukrainians, Uighur, Tatars, Germans, Turks, Kurds and others. Total population is 16.0 million, of which about 63% of Kazakhs.

As it is showed in charts above, the demographical changes in Kazakhstan were very serious and significant. During the period of considerable political, economic and social reforms, economic crises and challenges in the country, the population number changed dramatically. Economic crises, unemployment, plant closures, inflation were the main reasons for immigration of people. Many scholars and observers who have conducted research in Kazakhstan, first of all, noticed the economic problems in the early 90th.²

² M. MUSTAFINA, "German sociologist in Kazakhstan", *Liter.kz (Almaty)*, 2010, 9 of September. <http://assembly.kz/?f=show&ft=2000&type=23&id=25656476561>.

But there are different opinions of scientists and researchers who suggest that mass emigration from Kazakhstan of the Russian-speaking population has been associated with various problems in the country: economic, social problems were most severe.

In addition, one of the major problems were lack of legal and legislative protection of linguistic rights of ethnic groups. Insufficient legal guarantees and weak public confidence was one of the reasons for the mass exodus of Russian-speaking population³. In the early 90's the executive branch has been active in the company for the implementation of the Kazakh language in education, broadcasting, radio, press. However, the legislation could not keep up the actions of the executive branch. Lack of or inadequate legal protection of rights of ethnic groups to freely use, receive education in their native language led to dissatisfaction with the policy of the authorities.

The outcome of a great number of the German, Russian, Ukrainian population had a negative effect on security and economic development of Kazakhstan. Several departments of the economy, industries, academic sphere; villages and a farms lost their staff and workers. For example, the almost one million Germans who lived in Kazakhstan in the early 90's for 10 years left the country more than 800 thousand.⁴

In the early 90's in society, including political, social researchers, scientists had different opinions on the future of Kazakhstan. Some thought that the Russian population of Kazakhstan would completely emigrate, while others predicted inter-ethnic conflicts, a division of Kazakhstan on language, ethnicity and national disintegration⁵.

In this context it is necessary to identify the legal key, legislative factors, and internal political conditions in Kazakhstan, which became the basis of stability and ethnic harmony in the country:

³ E. SADOVSKAIA, *Migration in Kazakhstan on the boundary of XXI century: new tendencies and perspectives*, Almaty, MOM Publishing, 2001, pp. 25-37.

⁴ "Exodus of Non-Kazakhs Seen as a Serious Blow", *Izvestiya (News) (Moscow)*, 1994, 12 of April; As reported in the Foreign Broadcast Information Service Daily Report, Central Eurasia, 1994, 13 of April, p. 59.

⁵ O. BOLATOVA & E. ZHUNUSOV, "Matters and ideals", *Delovaia nedelya (Business week) (Almaty)*, 1998, 10 of April; V. ERMOLOV & O. KILDJAROV, "Great nomadic.

- freedom of movement, migration written in the Constitution, the laws allowed citizens, ethnic groups and minorities to freely emigrate, who had a high protest potential and desire to live in another country;
- creation of a united economic space, the laws on free movement of capital within the Commonwealth of Independent States and the single currency in the early 90's allowed the free export of capital, property belonging to citizens, leaving the country;
- existence of legal, legislative opportunities under the international agreements and treaties between Russia and Kazakhstan which allowed for the largest ethnic group - the Russian population to freely emigrate to Russia. Proximity and stable interstate relations with Russia positively influence as political, psychological guarantor of rights and interests protection for Russian population;
- irreconcilable nationalist opposition do not have any support in society and strongly pursues under the Constitution and laws on languages;
- language and cultural oppression on ethnic groups and minorities is prohibited under the law from the government and courts;
- absence on geopolitical space of region of the third force or the organizations with the purposes of creation of interethnic crisis and tensions in Kazakhstan;
- the presence of press freedom, freedom of NGOs, civil society organizations allowed to openly discuss the problem of protection of rights, freedoms of ethnic groups; flexibility and willingness of the power, political elite in settlement, finding compromises for key questions and problems of national groups and minorities.

One of the main factors in inter-ethnic policy of the Government of the Republic of Kazakhstan is the promotion and protection of religious freedoms. Legislation of Kazakhstan defends religious freedoms and different confessions freely and without restrictions are represented in the country. Islam is the religion of about two-thirds of the population,

Russian speakers running from Kazakhstan". *Pravda (The truth) (Moscow)*, 1998, 7 of July.

and Christianity (Russian Orthodox, Protestant, Catholic) faith of most others. Officially, Kazakhstan has about 46 different faiths are widely represented in different regions of the country.⁶

In the frame of our research it is necessary to determine different constitutional, legislative, institutional mechanisms and approaches of rights and interests protection of ethnic groups in modern Kazakhstan.

3. Constitutional basis of rights and interests protection of ethnic groups in modern Kazakhstan

Major Law of Kazakhstan determines basic regulations and conditions of government policy in rights and interests protection of ethnic groups in country. The contemporary Constitution of the Republic of Kazakhstan was adopted on August 30, 1995 in a nationwide referendum. But it is a second Constitution in modern history of Kazakhstan. The first Constitution of Kazakhstan was adopted in 1993.

It is important to underline that texts of both Constitutions of 1993, 1995 were in official languages: Kazakh and Russian. Therefore all texts of the Constitutions of Kazakhstan in English should be comprehended as unofficial translations.

The Constitution of Kazakhstan of 1993 was a first political, legislative step to legally confirm sovereignty and independence of the country. The Constitution of 1993 defined the basic principles of democracy: the separation of three sovereign powers, the system of checks and balances, free and open elections of President, MPs; a multiparty system, freedom of speech, media and more. The Constitution had a lot of positive and strong sides.

But it was abolished for different political, legal reasons. One of the most serious reasons were general meaning of statements and clauses. The Preamble of Constitution of 1993 claimed that «We, the people of Kazakhstan ...proceeding from firmness of the Kazakh statehood ...

⁶ Kazakhstan intends to continue close cooperation with the United Nations High Commissioner for Human Rights – K. SAUDABAIEV, acting chairman of OSCE, Minister of foreign affairs of Kazakhstan, 2010, 3 of March, <http://ru.government.kz/documents/publications/300>.

accepting the present Constitution»⁷. Thus the Constitution claimed that independent and sovereign Kazakhstan is a result of only Kazakh statehood. This claim determined ethnic orientation of the Constitution. Statement which determined that the Kazaks are the overarching people of Kazakhstan, respectively, reduced the legal, political position, role of other peoples of Kazakhstan.

Moreover one of the clauses of Constitution defined that the Republic Kazakhstan is the form of statehood of «self-determination of Kazakh nation»⁸. This definition has asserted that in Kazakhstan there is only a Kazakh nation. Other people determined as nationalities, ethnic groups which do not enter into the Kazakh nation. Kazakhstan affirmed as the mono-ethnic state.

One of the most debatable article of Constitution was the question of state language. The question of state language is long term problem in Kazakhstan. Under Soviet rule, the government harassed the Kazakh language, limited the study of culture, the history of Kazakh people. Soviet policy brought to situation when knowledge of Kazakh language has fallen till 30-40% even among Kazakh people. The most important and main task of the government were to raise the role and place of the Kazakh language in the society and country. For this purpose it was necessary to adopt it as the official language in the Constitution.

The text of first Constitution of 1993 stated: «In the Republic Kazakhstan a state language is the Kazakh language. Russian is language of international communication. Restriction of the rights and freedom of citizens by sign not possession of a state language or language of international dialogue is forbidden... the Republic Kazakhstan provides free functioning of Russian, along with state language. The right of use of a native language is guaranteed to citizens»⁹. The term “international language” meant language of interethnic communication and cooperation

⁷ The Constitution of the Republic of Kazakhstan, Almaty, 1993.
<http://www.elimai.kz/konstituciya-1993-goda.html>

⁸ The Constitution of the Republic of Kazakhstan, Almaty, 1993.
<http://www.elimai.kz/konstituciya-1993-goda.html>

⁹ The Constitution of the Republic of Kazakhstan, Almaty, 1993.
<http://www.elimai.kz/konstituciya-1993-goda.html>

between citizens of Kazakhstan. The term “nation” was used in the German tradition of understanding of “nation” when other citizens interpreted as other nations, or ethnic minorities within one country. This rule has caused a broad discussion in society, among political forces. Various non governmental, Slavic, Russian organizations, tried to establish in the Constitution the status of state, along with the Kazakh language, and for the Russian language.

Another reason for the cancellation of the 1993 Constitution was completely legal. The Constitution did not have an overall legal and political force. The Constitution was adopted by parliament, which was selected on the basis of Soviet law as part of the old political regime. The Constitution of 1993 was accepted only by Parliament of Kazakhstan without a referendum. The Constitution did not have the highest support of national decision.

Citizens, political parties, public organizations did not acknowledged it's legal power. All this provisions, clauses, articles provoked a variety of harsh debates among parties, public, non government organizations which could divide the society.

All this political, juridical problems of the 1993 Constitution became the reasons to adopt a new Constitution of Kazakhstan. President of Kazakhstan Nursultan NAZARBAIEV in 1995 after a long parliamentary, political crisis, presented to the citizens, political parties, civil, international organizations his own draft constitution. Clauses about the Kazakh nation, self-determination of the Kazakh people have been excluded from the new Constitution. The ethnic component of the Constitution has been completely removed. Articles and clauses of the new Constitution contained only the general concepts about statehood of Kazakhstan people.

The great attention has been given to the language question (article 7). The Kazakh language was adopted as the state, official language and the Russian language was raised to the same official level in public institutions and bodies.

«1. The state language of the Republic of Kazakhstan shall be the Kazak language.

2. In state institutions and local self-administrative bodies the Russian language shall be officially used on equal grounds along with the Kazakh language.

3. The state shall promote conditions for the study and development of the languages of the people of Kazakhstan»¹⁰.

The Constitution of the Republic of Kazakhstan adopted at the republican referendum on August 30, 1995, and amended on May 21, 2007.

The Constitution of 1995 resolved one of the most debated issues of autonomic regions, districts for the biggest ethnic groups within the territory of Kazakhstan. In the first years after independence, the biggest and the politically organized ethnic and national organizations of Slavic, Russian-speaking population have tried to create an autonomous region in northern Kazakhstan.

The question was really serious for the state. Northern and eastern regions of Kazakhstan were mainly populated by Russians, Ukrainians, where Kazakh were a minority. Some ethnic-national Slavic organizations, leaders of associations proposed creation of a federative form of territorial organization in Kazakhstan¹¹.

The Major Law of 1995 constitutionally fixed unity and indivisibility of territory. This clause of article 91, finally settled the question of the impossibility of creating autonomous districts and regions in Kazakhstan. Moreover formation and functioning of public associations pursuing the goals or actions directed toward a violent change of the constitutional system, violation of the integrity of the Republic, undermining the security of the state, as well as formation of unauthorized paramilitary units were prohibited by Constitution of 1995. The Constitution confirmed once again prohibition of formation and functioning of public, nonpublic associations pursuing the goals or actions directed toward inciting

¹⁰ The Constitution of the Republic of Kazakhstan adopted at the republican referendum in 1995, 30 of August, and amended in 2007, 21 of May.

¹¹ Commission on Security and Cooperation in Europe, "*Kazakhstan*", Implementation of the Helsinki Accords: Human Rights and Democratization in the Newly Independent States of the Former Soviet Union (Washington, D.C.: U.S. Government Printing Office, January 1993), p. 196-198.

social, racial, national, religious, class and tribal enmity. Article number 20, stated as an inadmissible and illegitimate propaganda or agitation of war, social, racial, national, religious, class and clannish superiority as well as the cult of cruelty and violence¹².

The Constitution of Kazakhstan of 1995 claimed as unconstitutional any actions capable of upsetting interethnic concord. Discrimination for reasons of origin, social, sex, race, nationality, language, attitude towards religion, convictions, place of residence or any other circumstances was prohibited. The Major Law stated free right to use native language and culture, to freely choose the language of communication, education, instruction and creative activities for people.

The new constitution reduced the tensions in society. It took several years to understand the legal, political uncertainty and the negative impact of definitions, as “the Kazakh nation” or “self-determination of the Kazakh people”. It is possible to say that the ethnic orientation of the Constitution, the inaccurate clauses, unresolved linguistic situation became reasons of dissatisfaction of power among some part of society. This not only led to increased discontent among some parts of society on government policies, but also to high emigration from Kazakhstan.

In turn, decrease of political trust of the population to the country authorities has led to reduction of support for economical, social reforms in Kazakhstan. All this consequences were reflection of fact that the Constitution of Kazakhstan has significant meaning for people, especially for ethnic groups in Kazakhstan. It is possible to confirm that the articles of the first Constitution reflected the political problems and challenges in the country in the early years of independence.

The most important and recent constitutional reforms that significantly affected the legal and political framework for the protection of the rights and interests of ethnic groups in Kazakhstan were held in May 2007.

The elective system in parliament of Kazakhstan provides election of deputies only from political parties and representatives of the president. All deputies of parliament of the country represent political parties or were appointed by the president of the Kazakhstan.

¹² The Constitution of the Republic of Kazakhstan adopted at the republican referendum 1995, 30 of August, and amended in 2007, 21 of May.

Deputies of the Parliament of the Republic of Kazakhstan were mainly represented the largest ethnic groups - Kazakhs and Russians. Almost all parliamentary seats of Kazakhstan were occupied by representatives of the ethnic majority - Kazakhs and Russians. This caused concern in society, including social, cultural, and international organizations. Other ethnic groups were underrepresented, or never had deputies in the Parliament of the Republic of Kazakhstan.

The constitutional changes of 2007 became result of numerous public and political discussions in a society, political sphere. The constitutional reforms became a result of political discussions of problems of development of democracy, division of the authorities, increase of a role of parliament, deputies, local government development. The process of increase of protection of the rights and interests of ethnic groups were one of the reasons of reforms of the Constitution of 1995. Different ethnic groups wanted a special parliamentary quota system or a special election system of MPs for many years the development of democracy in Kazakhstan. The electoral system did not allowed ethnic groups to elect their own deputies in parliament from local election districts.

Thus in 2007 a constitutional reform that was supported by the country's parliament was successfully carried out. The quota system of parliamentary seats for representatives of national (ethnic) groups has been established. According to the reform national (ethnic) groups in Kazakhstan have 9 seats in the Lower House of Parliament.

Section 4, articles 49 and 50 states «Parliament of the Republic of Kazakhstan is the highest representative body of the Republic performing legislative functions... Parliament shall consist of two Chambers acting on a permanent basis: the Senate and the *Majilis*»¹³.

The Upper House of the parliament - the Senate consists of 47 deputies. The Senate composed of deputies elected in twos from each oblast (14 regions), a city of republican value (Almaty) and the capital of the Republic of Kazakhstan. Fifteen deputies of the Senate appoints by the President of Republic to represent in the Senate interests of national-cultural and other significant strata of society.

¹³ The Constitution of the Republic of Kazakhstan adopted at the republican referendum in 1995, and amended in 2007, 21 of May.

The Lower House of the parliament - *Majilis*, consists of one hundred and seven deputies. Term of appointment of deputies of the Senate is six years; term of appointment of deputies of *Majilis* is five years.

A deputy of the parliament may be a citizen of the Republic of Kazakhstan for not less than ten years. A deputy of the Senate must be a citizen of Kazakhstan and who has reached thirty years of age, has a higher education and length of service of not less than five years, and has been a permanent resident for not less than three years on the territory of the according oblast (region), city of Almaty or the capital of the Republic. A deputy of the *Majilis* may be a citizen of the Republic of Kazakhstan who has reached twenty-five years of age.

An important feature of the Constitution of Kazakhstan is its neutrality to an ethnic, national origin of the public servant, the deputy or the President of the country. In addition, the occupation of office of members of parliament of Kazakhstan does not need knowledge of a state language. Only candidates for the post of President of the Republic of Kazakhstan, Chairmen of the Upper or Lower House of Parliament should be fluent in the Kazakh language. In addition, candidates for the job in the civil service system do not need to know, to prove their knowledge and pass tests on the state language.

In accordance with the constitutional reform of 2007, article number 51 has undergone to change. The election of deputies of ninety eight deputies of the *Majilis* carried out on the basis of universal, equal and direct suffrage by secret ballot by citizens of the country. Nine deputies of the *Majilis* are elected by members of the Assembly of Peoples of Kazakhstan.

4. Legislative basis of protection of the rights of ethnic groups

The legislative framework protecting the rights of ethnic groups is one of the most developed in Central Asia. The 1995 Constitution allowed to adopt different laws for the protection of linguistic, educational, social, cultural rights and interests of ethnic groups. The laws and acts on education, national security, the media provided equal rights and opportunities for all citizens, but also reaffirmed the special rights of

ethnic groups and minorities to receive support and assistance from the government.

The basic law for the protection and realization of the rights and interests of ethnic groups is the Law 151/1997, 11 of July, «On languages in the Republic of Kazakhstan». The Act entered into force in 1997.

The Article 6 «The care of the state of languages» determines that:

«Every citizen of the Republic of Kazakhstan has the right to use his/her native language, freely choose the language of communication, education, learning and creativity. The State shall promote conditions for study and development of languages of people of Kazakhstan. In places of compact residence of national groups in mass events can be used their native languages»¹⁴.

In this context, the term “development”, as used in the Constitution and other legal documents involves two meanings, the “revival” and “spread” of the language. Constitution and laws of the Republic of Kazakhstan on languages aimed at supporting the growth and viability of the Kazakh language.

Status of the Kazakh language as the state is the main legislative mechanism to ensure that it was spread throughout the country and became the language of interethnic communication. The purpose of the state language policy is to increase the role of the Kazakh language as a national, together with the support of other languages in Kazakhstan. This political decision by the Government is a necessary step for the dissemination of the Kazakh language among all citizens, and especially among non-Kazakhs. State status for the Kazakh language is a legislative and legal step to increase the motivation of people to study Kazakh language. The status of state language helps to develop language, to create new dictionaries, textbooks, literature, also prevents weakening of the spread of the language in government offices.

The Article N°5 determines role and place of Russian language in Kazakhstan. The Article determines that in state institutions and local

¹⁴ The Law 1997, “On languages of the Republic of Kazakhstan”, Almaty.
http://til.gov.kz/wps/portal/!ut/p/c0/04_SB8K8xLLM9MSSzPy8xBz9CP0os3gTA3cDA3fLYCOPEFdXA093Q-NgZ29vY2d3E_3g1Dz9gmxHRQBeOF_8/

administration bodies along with the Kazakh language Russian language can officially be used without any restrictions.

The Article N°7 «Inadmissibility of interference with the functioning of languages» identifies the official punishment by the court for impediment to development and use of languages of ethnic groups of Kazakhstan. «In the Republic of Kazakhstan the infringement of civil rights on the basis of language isn't allowed. Actions by officials that impede the functioning and the study of state and other languages represented in Kazakhstan, are punishable in accordance with the laws of the Republic of Kazakhstan»¹⁵.

The law on languages in Kazakhstan fixes the free choice of language use in their work for NGOs and public organizations. It can be as Kazakh, Russian, and language of ethnic groups of the country. In addition, in public and private institutions and bodies of local self-administration officials, alongside with the Kazakh, the Russian language can be freely used. «Language of work and office work of state bodies, organizations and local authorities of the Republic of Kazakhstan is the official language, along with the Kazakh, officially Russian language is used. In the work of NGOs, the state and, if necessary, other languages»¹⁶.

The law on languages in Kazakhstan provides ample opportunities for official use of Russian language and English in the private, business, financial, banking and other fields.

For example the Article 10 determines that in financial center of Kazakhstan - Almaty city, English language officially can be used. Besides the publication, registration of statistical, financial, technical documentation in the state structures, state institutions necessarily carried out both at the state and Russian languages.

¹⁵ The Law "On languages of the Republic of Kazakhstan", Almaty, 1997.
http://til.gov.kz/wps/portal!/ut/p/c0/04_SB8K8xLLM9MSSzPy8xBz9CP0os3gTA3cDA3fLYCOPEFdXA093Q-NgZ29vY2d3E_3g1Dz9gmXHRQBeOF_8/

¹⁶ The Law "On languages of the Republic of Kazakhstan", Almaty, 1997.
http://til.gov.kz/wps/portal!/ut/p/c0/04_SB8K8xLLM9MSSzPy8xBz9CP0os3gTA3cDA3fLYCOPEFdXA093Q-NgZ29vY2d3E_3g1Dz9gmXHRQBeOF_8/

Almost all state and local authorities use a bilingual practice in their work. Legislative, executive, judiciary powers; army, science, education, culture, business, private sectors officially use the Kazakh and Russian languages in their work.

Only Article 18 «Language of the press and mass media» obliges television channels to use Kazakh language in broadcasting news and information. The volume of transfers on television broadcasting channels, irrespective of forms of their property, in state language shouldn't be less than total volume of transfers in other languages. This article shows the problem of development and scope of Kazakh language which is not so popular on television channels, which are mainly broadcast in Russian and English languages.

There are many scientists and observers who affirm that the Russian language has no threats in Kazakhstan. Russian language is important as an official, as the language of education, science and the mass media, as a lingua franca. All state censuses prove that the majority of ethnic Kazakhs and all other citizens are well aware of the Russian language. Moreover only 25-30% of Kazakhs confirm that they know only Kazakh¹⁷. Accordingly, only about 10-15% of Russians claim to know Kazakh¹⁸. Besides government officials, civil servants, deputies use mostly Russian 60-70% in their work and only about 25-30% Kazakh language¹⁹. Latest surveys and polls confirm that almost 95% of all citizens of Kazakhstan fluent in Russian, and only 30% of citizens fluent in Kazakh language²⁰.

¹⁷ A. SMAILOV, *Itogi perepisi naselenia 1999 v Respublike Kazakhstan (The results of the 1999 Population Census in the Republic of Kazakhstan)*, Almaty, Agency of Statistics of Kazakhstan, 2001.

¹⁸ M. ARENOV & S. KALMYKOV, "Chto v osnove iazikovoi politiki? (What is in the Base of Language Policy?)" *Kazhstanskaia Pravda (The truth of Kazakhstan)*, 1998, 4 of June.

¹⁹ A.M. NYSANBAYEVA, *The development of language policy in Kazakhstan*, Almaty, 2000.

<http://www/kisi/Parts/books>

²⁰ E. KNAZEVA & N. POZDNJAKOVA, "Russian remains the basic means of dialogue in Kazakhstan", *Deutsche Welle*, 2009, 29 of June. <http://www.dw-world.de/dw/article/0,,4442114,00.html>

The Ministry of Education also confirms presence of problem of popularization of Kazakh language. Most of families give their children to Russian preschools and elementary schools (60-70% of preschools are Russian-medium). Almost 40-45% of the total schoolchildren in Kazakhstan go to Russian language schools²¹.

Russian language is viewed as a reliable linguistic capital, the possession of which provides access to a broader, actual information, especially in the cultural and economic spheres.

Basically, in the Republic of Kazakhstan is provided free functioning of Russian and other languages in publications and mass media.

It is important to note that optimal and efficient process of forming language policy is one of the most socio-politically relevant aspects of public life, which can directly affect the security and stability in the country. Effective linguistic politics contributes to strengthening of civil accord and further consolidation of society and provides adequate realization of ethnolinguistic and cultural needs.

Generally it is possible to determine three stages of realization of language policy in Kazakhstan. The press service of the Ministry of education of Kazakhstan also determines three stages of linguistic politics in modern Kazakhstan. Stages of development of language policy reflect the different linguistic reforms which chronologically display the main events of the protection of languages of ethnic groups and minorities.

The first stage (1992-1997).

Development of main directions, contents and objectives of language policy. This stage includes the most difficult period of errors and attempts to create an efficient and rational language policy of the government. Two different constitutions of Kazakhstan created difficulties in the elaboration adequate language policy. Only adoption of Law on languages, adoption of the new Constitution allowed to pass to the next stage.

²¹ *Gosudarstvennaia programma funkcionirovaniia i razvitiia iazykov na 2001-2010 godi* (State Program of Functioning and Development of Languages in 2001-2010), Main legislative documents on languages in the Republic of Kazakhstan, Almaty, Jurist Publishing, 2003.

The second stage (1998 - 2000).

Adoption of a new Law on languages allowed to determine the state, public and international mechanisms for the implementation of state language policy. The Ministry of Education and Science, regional authorities, different agencies, the Assembly of People of Kazakhstan, NGOs have become major developers and agents of the state, regional and special development programs, the protection of the languages of the Republic of Kazakhstan.

The state program on development and functioning of languages (1998) gave an opportunity to take concrete measures to achieve the main goals of the initial stage of implementing the law «On the languages in the Republic of Kazakhstan». After passing a number of legal regulations of the Government of the Republic of Kazakhstan authorities, NGOs have created the necessary prerequisites for further extension and intensification of language structuring processes in all the spheres of public life.

The third stage (from 2001 to present time).

In accordance with the functional principle of language policy and linguistic space set forth in the Constitution of the Republic of Kazakhstan and reflected in the law «On the languages in the Republic of Kazakhstan» and in the State program on development and functioning of languages for 2001-2010, the structuring of official, ethnic languages of the country is carried out in 3 differential areas: 1) extension and strengthening of social-communicative functions of the state language; 2) preservation of general cultural functions of the Russian language; 3) development and support for other languages of people of Kazakhstan²².

Another fundamental law of the protection and realization of the rights and interests of ethnic groups in Kazakhstan is the Law 389-1/1999, 7 of June, «On Education in the Republic of Kazakhstan». The Law enshrines and protects the rights of ethnic groups in education in their languages. The Law prohibits all restrictions on access to education,

²² Official Internet address of the Ministry of Education of Kazakhstan.
http://egov.kz/wps/portal/Content?contentPath=/web%20content/citizenry/culture/cul_media/lang_policy/article/780&lang=en

knowledge in their native languages. The Law allows many schools and universities, including the public, to conduct education and training in all the languages of international, interethnic communication, dialog in Kazakhstan. Thanks to the Law various ethnic schools, linguistic centers receive government funding and assistance.

The Article 5 «Language of education and training» states that «All institutions, regardless of ownership, should provide the knowledge and the development of Kazakh as the state language, and studying the Russian language and one foreign language in accordance with state educational standards for each level of education»²³.

The Law states that all needs and requirements will be implemented for the national (ethnic) groups to free and efficient learning their native languages. In addition, in places of compact residence, high concentration of ethnic groups, educational institutes or entities (school classes, groups, and others) can organize the training in their native language.

The Law 233/1998, 26 of June, «On the national security of the Republic of Kazakhstan» was adopted by parliament and signed by President. The Law became one of the key legislative acts that strengthened agreement in interethnic relations, sphere in Kazakhstan. As the main threats to national security, independence and stability in Kazakhstan have been identified: interethnic and interracial enmity and conflicts.

Article 5 of the Law identified as the main and principal threats to national security following:

- «– political extremism in any form, including inciting social, racial, ethnic, religious, class and tribal enmity or hatred;
- aggravation of social and political situation, reflected in ethnic and confessional conflicts, mass riots, unauthorized meetings, rallies, marches and demonstrations, illegal strikes and pickets»²⁴.

One of the key implementation issues of national security were identified the mechanisms to ensure public safety. It was stated that

²³ The Law “On education in the Republic of Kazakhstan”, Astana, 1999.
http://www.edu.gov.kz/index.php?id=zakon_obrazovaniia&L=1

²⁴ The Law “On the national security of the Republic of Kazakhstan”, Astana, 1998.
http://www.cvs.kz/index.php?Itemid=78&catid=45:2008-07-14-15-30-30&id=127:-q-q&lang=en&option=com_content&view=article

public security is ensured by the decisions and actions of government bodies, organizations, officials and all citizens, aimed at:

- strengthening guaranties to ensure the personal security of citizens, their rights and freedoms;
- formation of a national psychology, based on Kazakhstan patriotism and interethnic harmony;
- strengthening the unity of the people of Kazakhstan;

The National Security Act established that any decisions and committing acts, laws are unconstitutional and therefore prohibited, if they can:

- disrupt the unity of the people of Kazakhstan and worsen the condition of international (interethnic) relations;
- disrupt the public harmony and political stability in the country;
- lead to unlawful interference of religion in the affairs of state and government in religious affairs.

One of the results of enactment of the Law on national security is the decision of the Constitutional Council and Presidential to refuse the adoption of Law «On religions in Kazakhstan». «In one positive development, on February 11, 2009, Kazakhstan's Constitutional Council ruled that a proposed religion law violated the constitution. One of the key elements of the ruling was its finding that certain provisions in the proposed law “do not ensure equality between religious communities” and that many of its provisions were vague and thus might create problems for implementation»²⁵.

Thus, the Law on the national security defines interethnic accord, harmony and peace as the a basic public and social values that should be protected and guarded not only by laws, government structures, but also by people and all citizens. It was stated that all and any actions, decisions which can disrupt the unity of the people of Kazakhstan; worsen the condition of interethnic relations; disrupt the public harmony; stability in the country will be regarded as an encroachment on national safety.

²⁵ The Human Rights Watch report 2008 on Kazakhstan. <http://www.hrw.org/en/node/87611>

5. Institutional basis of rights and interests protection of ethnic groups in modern Kazakhstan

One of the most legislatively influential and politically well-known institute to protect and represent ethnic minorities rights and interests organization is the Assembly of people of Kazakhstan. The Assembly of people of Kazakhstan is a unique and original public-cultural, later political institute of Kazakhstan. The organization do not has any similarity in Commonwealth of Independent Countries or Europe. The Assembly unites all national-cultural centers, organizations of ethnic groups of Kazakhstan.

The official head of Assembly according to the Constitution is the President of Kazakhstan N.A. NAZARBAYEV. The first heads of Assembly also are: 1) ZACHAROV, U.F. - the Chairman of Coordination council of Russian, Cossack and Slavic organizations of Kazakhstan, DEDERER, A.F. - the Chairman of Association of public associations of Germans of Republic Kazakhstan “*Wiedergeburt*”, TUGZHANOV, E.L. - Vice head of the Association²⁶.

Assembly of people of Kazakhstan has been formed in 1995, 1 of March, by the Decree of President Kazakhstan N.A. NAZARBAIEV. Currently the Assembly unites 818 different national-cultural centers, organizations of ethnic groups of Kazakhstan. The Assembly is presented in all regions, big cities, districts of Kazakhstan. Financing of activity of the public-political institute is spent by the government, private donors from among ethnic groups, international humanitarian organizations²⁷.

One of the main public functions of the Assembly is to represent interests, organize public cultural-traditional actions, meetings all ethnic groups. In regions and districts of country new cultural centers, theatres, libraries were created under the management and participation of Assembly members and board. Such activities always financed by government (republican and local).

²⁶ The management stuff of the Assembly of people of Kazakhstan.
http://assembly.kz/index.php?type=87&ft=2000&java_tree=87

²⁷ V. VOLKOV & M. BUSHUEV, “The doctrine of national unity and its critics”, *Deutsche Welle*, 2010, 2 of February. <http://www.dw-world.de/dw/article/0,,5204411,00.html>.

There are 35 newspapers and magazines in 11 ethnic minorities languages (without Kazakh and Russian) issuing allover the Kazakhstan on the basis of state financing and support. There are 44 television studios which broadcast in 12 languages; 8 radio studios broadcast in 7 languages in different regions of the country²⁸.

There are many ethnic schools, teaching, linguistic centers operate under the government financing and support. Government programs help every educational activities of the Assembly and it's partner organizations. All interests of ethnic groups to learn their native languages in Sunday, weekend schools supported by local and central authorities. Currently different government programs allowed to ethnic groups, the Assembly to open many ethnic schools, linguistic centers. There are 108 schools of 22 ethnic minorities in different regions of Kazakhstan (not Kazakh and Russian). There are more than 7000 schoolchildren. Under the management and support of regional national-cultural associations, 179 Sunday schools functions; where 23 native languages are studied. Generally all ethnic groups which compactly live in regions can open Sunday school or linguistic center to freely learn their languages, cultures, history, traditions²⁹.

Annually under the state order, only in languages of ethnic minorities of Kazakhstan almost 30 books, guides are issues, which have in general circulation more than 80 thousand copies. Moreover, the Assembly has it's own printing tool, publication the magazine "*Dostik*" (Friendship). Since May, 2009 political, law, social-cultural magazine publishes articles, opinion, interests of leaders, and members of the Assembly. The magazine also publishes main events, latest news of interethnic situation, processes in Kazakhstan. Scientists and observers also can publish their science articles and opinions on ethnic processes in Kazakhstan and neighboring countries. Publishing instrument allows leaders, members of

²⁸ The national plan of action in the field of human rights in Republic Kazakhstan on 2009-2012 years, Under the reduction of T.D. ABISHEV & S.T. TURSINOVA, Astana, 2009, 136 p., pp. 12-15.

²⁹ The national plan of action in the field of human rights in Republic Kazakhstan on 2009-2012 years. Under the reduction of T.D. ABISHEV & S.T. TURSINOVA, Astana, 2009, 136 p., pp. 21-22.

ethnic-cultural organizations freely communicate to each other, extend information³⁰.

According to the constitution of Kazakhstan the President of the country forms and confirms himself the Assembly administrative board.

It is important to mention, that main political-juridical tasks of Assembly are to protect rights, represent interests of ethnic groups, minorities before authorities, deputies in Parliament, in meetings and conferences before President, international organizations, foreign officials.

First of all, constitutional reforms of 2007 increased role and place of the Assemble of people of Kazakhstan. Public-cultural organization became political, government institute. The Assembly obtained constitutional right to present in Lower House of parliament 9 deputies. The article 51 of the Constitution confirmed the right of Assembly to delegate 9 its members to parliament. The system of quotation became first of its kind in all region. Currently 9 members of Lower House of parliament represent different ethnic groups of Kazakhstan population. Candidates to represent Assembly in parliament were elected inside of each ethnic group and confirmed by head of the Assembly - President of Kazakhstan. First deputies from Assembly became deputies in 2008 and represented Uighur, Ukrainian, German, Russian, Belorussian, Uzbek, Balkar, Korean ethnic groups and organizations³¹.

Thus in the legislature of the Republic of Kazakhstan appeared parliamentary institution of representation, protection of the rights and interests of ethnic groups of Kazakhstan. Parliamentary quota allows ethnic groups to be necessarily represented in the legislature of the country. Combining their efforts and capabilities, deputies from the Assembly can influence on the adoption, discussion of laws and bills

³⁰ Z.H. ALIEV, The Assembly of people of Kazakhstan's vice-president's interview "Tolerance - the pledge of stability", *Kazakhstanskaia Pravda (The truth of Kazakhstan)*, 2007, 5 of March.
<http://www.kazpravda.kz/arhive/rus/20070503>>

³¹ Candidates of the Assembly of people of Kazakhstan to parliamentary elections of 2008 in Kazakhstan.
<http://pravo.zakon.kz/kazakhstan/91365-kandidaty-v-deputaty-mazhilisa.html>

of the parliament. Another legislative power of the Assembly of people of Kazakhstan is that all the bills, documents of the Parliament pass peer review, discussion of the deputies of the Assembly. This condition is enshrined in the Constitution. A group of nine members – a force that can hold as the real work of legislative drafting, and under certain conditions affect the outcome of the vote.

It is important to notice, that Assembly became known in foreign countries and international organizations due to different conferences, meetings of Assembly in Kazakhstan. Members of Assembly also represent organization, display interethnic relations in Kazakhstan in foreign countries and organizations like UN, OSCE, UNESCO and other.

Due to significant achievements and results international prestige of this organization has increased. UN General Secretary Kofi ANNAN, who visited the republic, called Kazakhstan «an example of ethnic harmony, stability, sustainable development for other states». According to him, «thanks to the Assembly of Peoples of Kazakhstan, a variety of ethnic, cultural, religious groups that make up a great nation, can participate in making important decisions that affect their lives»³². It is possible also to present some opinions about Assembly of respected and known European officials. For example, Hedi WEGENER, head of the parliamentary German-Central Asian group of the Bundestag, said: «The country that its territory has more than 120 different nations, ethnic groups, which was able to arrange their peaceful lives – is of great interest. The Assembly of People is a tool, a bridge between them»³³.

Staf NIMMEGEERS, deputy chairman of the Senate of Belgium, attended the Second Congress of World and Traditional Religions, and convinced that in Kazakhstan there is peace and harmony. «I admire your president, his energy and sense of political foresight. We will actively adopt and implement your experience at home. We are going to implement Kazakh

³² Official Internet address of The Assembly of people of Kazakhstan. <http://assembly.kz/index.php>.

³³ Z.H. ALIEV, The Assembly of people of Kazakhstan's vice-president's interview "Tolerance – the pledge of stability", *Kazahstanskaia Pravda (The truth of Kazakhstan)*, 2007, 5 of March.
<http://www.kazpravda.kz/arhive/rus/20070503>

model in Belgium, Flanders. Kazakhstan's model of inter-ethnic harmony can be applied in international practice»³⁴, emphasizes politician.

Generally it is possible to present an example of how many rumours, decision were on the ethnic processes. Many scientists, observers, especially in Europe in the beginning of 90-th, predicted ethnic conflicts, split of Kazakhstan, serious problems in interethnic relations. Even the Commission on Security and Cooperation in Europe, in its report on human rights and democratization in Kazakhstan in 1993, concludes that «the issue of Russian-Kazakh relations will perhaps be the most critical one facing the new country», and that this problem «will affect ... whether Kazakhstan will be able to hold together in its present borders»³⁵.

To great happiness of Kazakhstan and people of Kazakhstan, it does not happen, but contrary interethnic relations, international peace and tolerance in society are most strong factors of current stability and political, economical grows of Kazakhstan.

Latest polls of NGOs confirm that there are no severe tensions on languages, no violations of rights of ethnic minorities in Kazakhstan³⁶. Majority of citizens support government policy, especially political decisions the President of Kazakhstan N. NAZARBAIEV.

6. Conclusions

Thus, we can summarize that in Kazakhstan there are all the major legislative mechanisms and instruments for the protection and realization of the rights and interests of ethnic groups and minorities.

³⁴ Z.H. ALIEV, The Assembly of people of Kazakhstan's vice-president's interview "Tolerance – the pledge of stability", *Kazhstanskaia Pravda (The truth of Kazakhstan)*, 2007, 5 of March, <http://www.kazpravda.kz/arhive/rus/20070503>

³⁵ Commission on Security and Cooperation in Europe, "Kazakhstan", Implementation of the Helsinki Accords: Human Rights and Democratization in the Newly Independent States of the Former Soviet Union (Washington, D.C.: U.S. Government Printing Office), 1993, January, pp. 204.

³⁶ National (ethnic) public organizations activities evaluation by Kazakhstan's Russian. <http://www.zonakz.net/articles/25879>

Protecting the rights, the implementation of the interests of ethnic groups and minorities in Kazakhstan, based on the following mechanisms and tools:

- Constitutional protection, provides the basic legal mechanisms to protect the rights of ethnic groups and minorities.
- Laws on language, education, national security and other legislation provide a legal defense, promote the interests of ethnic groups.
- Various government, public institutions, non-governmental organizations are key institutions, instruments that provide the main social, legal assistance to ethnic minorities. A special example of a cautious, careful approach of the state, society, in the ethnic area is the work of the Assembly of People of Kazakhstan.
- Special training, educational programs, projects for the development of culture of central and local state authorities allow ethnic minorities to develop their own languages, to study their native culture and traditions.

Obviously, the effective implementation and use of these legal, political mechanisms and institutes will counteract the emergence of ethnic and religious conflicts in Kazakhstan.

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